



Corridor Program

Congestion Relief & Bus Rapid Transit Projects

APPENDIX E11

I-405 SR520 TO SR522 KIRKLAND STAGE 1 UNANTICIPATED DISCOVERY PLAN

I-405, SR520 to SR522 Stage 1 (Kirkland Stage 1)

Request for Proposal
July 15, 2005



**Washington State
Department of Transportation**

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I-405 Congestion Relief and Bus Rapid
Transit Projects
Unanticipated Discovery Plan for the Kirkland Nickel
Project

July 2005

Prepared for

Washington State Department of Transportation, Urban Corridors Office

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PLAN AND PROCEDURES FOR DEALING WITH THE UNANTICIPATED DISCOVERY OF CULTURAL RESOURCES DURING THE I-405 KIRKLAND NICKEL PROJECT IN KING COUNTY, WASHINGTON

1. INTRODUCTION

Washington State Department of Transportation (WSDOT) is in the planning stage of I-405 Kirkland Nickel Project. The project extends from SR 520 in the south to SR 522 in the north. It will add one new northbound lane between NE 70th Street and NE 124th Street and one new southbound lane between SR 520 and SR 522. The project also will include some wetland mitigation sites. This project is currently funded by Washington State tax dollars, which requires the planning effort to follow the SEPA process. However, WSDOT is preparing environmental documentation that will not only satisfy SEPA, but also NEPA in the event Federal dollars are received for project funding. Federal law stipulates that in the case of an undertaking that utilizes federal money a project will adhere to provisions of the National Historic Preservation Act of 1966 (as amended). As the lead agency, FHWA is responsible for all aspects of 36CFR800 in dealing with the treatment of cultural resources and the consultation of concerned parties. FHWA has delegated authority to WSDOT for examining cultural resources and consultation. Potentially concerned parties include six affected Indian tribes: the federally-recognized Muckleshoot Indian Tribe, Snoqualmie Indian Tribe, Confederated Tribes and Bands of the Yakama Nation, the Tulalip Tribes, and Suquamish Indian Tribe and the non-federally recognized Duwamish Indian Tribe, along with the State Historic Preservation Officer, FHWA, Army Corps of Engineers (if 401 or 404 permits are involved) and WSDOT.

WSDOT has contracted a consultant to conduct a cultural resource study for the project, which included background research, an archaeological survey and subsurface testing supervised by an archeologist who meets the Secretary of Interior standards. In areas that have been identified as having a high probability (High Probability Areas) for encountering subsurface cultural materials, an archaeological monitor (Monitor) will be employed to oversee ground-disturbing activity. In areas that have been identified as low probability for encountering cultural materials, the Environmental Inspector (EI) will be trained to follow procedures outlined in this IDP, but no archaeological monitor will be employed. During the course of the study, document preparation and construction, WSDOT has and will continue to consult with the concerned Tribe(s) and the Washington State Office of Archaeology and Historic Preservation [per 36CFR800.2(4)].

In the event that archaeological materials are encountered during project activities this document serves as the plan for dealing with any unanticipated discoveries of human skeletal remains, artifacts, sites, or any other cultural resources eligible for listing in the National Register of Historic Places (NRHP). This plan is intended to provide guidance to WSDOT personnel and their contractors so they can:

- Comply with applicable Federal and State laws and regulations, particularly 36 CFR 800 (as amended January 11, 2001) of the regulations that implements Section 106 of the National Historic Preservation Act of 1966, and Title 27 Revised Codes of Washington Chapter 27.44 Indian Graves and Records, Chapter 27.53 Archaeological Sites and Resources, and Title 68 Chapter 60.050 Protection of historic graves, and
- Describe to regulatory and review agencies the procedures WSDOT will follow to prepare for and deal with unanticipated discoveries, and
- Provide direction and guidance to project personnel on the proper procedures to be followed should an unanticipated discovery occur.

2. PROCEDURES FOR THE DISCOVERY OF HUMAN SKELETAL MATERIAL

Any human skeletal remains that are discovered during this project will at all times be treated with dignity and respect. Immediately implement the notification procedures in Attachment A.

- A. If the Monitor, any WSDOT employee, or any agent of WSDOT believes that he or she has made an unanticipated discovery of skeletal (human or of undetermined origin) remains, all work adjacent to the discovery shall cease. The area of work stoppage will be adequate to provide for the security, protection, and integrity of the skeletal remains, in accordance with Washington State law.
- B. Representatives of WSDOT will be responsible for taking appropriate steps to protect the discovery. At a minimum, the immediate area will be secured to a distance of thirty (30) feet from the discovery. Vehicles, equipment, and unauthorized personnel will not be permitted to traverse the discovery site.
- C. Following specific guidance in Appendix 1, the I-405 Project Environmental Manager will immediately call the King County Sheriff's office and/or 911 and the WSDOT cultural resources staff qualified to identify human or culturally significant animal skeletal remains. WSDOT acknowledges that any find of human skeletal remains may be in whole or in part a burial of Native American ancestry. It is further acknowledged that the concerned Indian Tribes are extremely sensitive about such burials, and that the find must be treated confidentially. The Sheriff's office may arrange for a representative of the county coroner's office to examine the discovery and will determine whether it should be treated as a crime scene or as a human burial of Native ancestry. In any event, the remains should be disturbed as little as possible and be left in the original location until a certified archaeologist has determined the remains are not of significant cultural value. This procedure applies to both human and animal skeletal remains.
- D. If the human skeletal remains are determined to be Native American, WSDOT will notify the State Office of Archaeology and Historic Preservation and the concerned Indian Tribe(s) and FHWA as listed in Attachment A. These parties and WSDOT will consult to determine what treatment is appropriate for the human skeletal remains. At this point if FHWA warrants, they may assume all authority over the government-to-government consultation process.

- E. If disinterment of Native American human remains becomes necessary, the consulting parties, which will include the State Office of Archaeology and Historic Preservation, the concerned Indian Tribe(s), and WSDOT, will jointly determine the final custodian of the human skeletal remains for reinterment.

- F. WSDOT and/or FHWA will make a good faith effort at accommodating requests from the concerned Indian Tribe(s) to be present after they are notified of discoveries, and prior to the implementation of mitigation measures related to human skeletal remains.

3. PROCEDURES FOR THE DISCOVERY OF ARCHAEOLOGICAL RESOURCES

- A. If any WSDOT employee, its contractors or subcontractors believes that he or she has inadvertently uncovered any cultural resource, all work adjacent to the discovery shall cease. Representatives of WSDOT will be notified. The area of work stoppage will be adequate to provide for the security, protection, and integrity of the archaeological discovery. A cultural resource discovery could be prehistoric or historic and consist of:
- areas of charcoal or charcoal-stained soil and stones,
 - stone tools or waste flakes (i.e. an arrowhead or stone chips),
 - bones, burned rocks, or other food remains in association with stone tools or chips,
 - clusters of tin cans or bottles, logging or agricultural equipment, which appear older than 50 years.
- B. If the Cultural Resource Specialist believes that the discovery is a cultural resource the representative will take appropriate steps to protect the discovery site. At a minimum, subsurface investigations will stop and the area adjacent to the discovery will be secured to a distance of thirty (30) feet. Vehicles, equipment, and unauthorized personnel will not be permitted to traverse the discovery site. Work in the immediate area will not resume until treatment of the discovery has been completed following provisions for treating archaeological/cultural material as set forth in Appendix 1.
- C. The Monitor will contact the I-405 Environmental Manager, who will contact the WSDOT Cultural Resources Office and FHWA to assist in the evaluation of all unanticipated discoveries of cultural resources potentially eligible for listing in the NRHP that are encountered. The archaeologist and qualified WSDOT cultural resource specialist/archaeologist will recommend whether the discovery is eligible for listing in the NRHP. Any discovery deemed eligible for listing in the NRHP will be assessed and treated according to provisions set forth in Appendix 1 of this document.
- D. The archaeologist will immediately contact the State Office of Archaeology and Historic Preservation, and WSDOT to seek consultation regarding the National Register eligibility of any further discovery. If WSDOT and OAHP representatives determine that the discovery is an eligible cultural resource, they and the concerned Indian Tribe(s) will consult to determine appropriate treatment of it. Treatment measures may include protection in place or data recovery such as mapping, photography, limited probing and sample collection, or other activity deemed appropriate through a Memorandum of Agreement.

ATTACHMENT A

CONTACT INFORMATION

1. The WSDOT Monitor or Representative will notify the I-405 Project Environmental Manager of the discovery.

Environmental Manager: Allison Ray
Phone: 425.456.8610
206.714.1548 (cell)

(Alternative)
Environmental Coordinator Jason McKinney
Phone: 425.456.8562
253.221.7740 (cell)

2. If the discovery is a bone(s) of uncertain origin, the Environmental Manager will notify the appropriate local law enforcement, WSDOT Cultural Resource Specialist, UCO Environmental Director. Once a determination of origin is made, proceed to Step 3.

UCO Environmental Director Kimberly Farley
Phone: 206.464.1227

UCO Cultural Resources Specialist: Connie Walker Gray
Phone: 206.464.1236

Cultural Resources Contact #2 Sandie Turner, Cultural Resources Manager
Phone: 360.570.6637

Cultural Resources Contact #3 Trent DeBoer
Phone: 360.570.6638
360.791.1461 (shared office cell)

Cultural Resources Contact #3 Garth Baldwin
Phone: 360.570.6650

3. If the discovery is of human remains, or a bone(s) of uncertain origin, the Environmental Manager will notify the appropriate local law enforcement or other tribal authorities. The Environmental Manager will also notify the Tribal Staff identified below and the UCO Environmental Director, UCO Cultural Resources Specialist and FHWA:

UCO Environmental Director Kimberly Farley
Phone: 206.464.1227

UCO Cultural Resources Specialist: Phone:	Connie Walker Gray 206.464.1236
Cultural Resources Contact #2 Phone:	Sandie Turner, Cultural Resources Manager 360.570.6637
Cultural Resources Contact #3 Phone:	Trent DeBoer 360.570.6638 360.791.1461 (shared office cell)
Cultural Resources Contact #3 Phone:	Garth Baldwin 360.570.6650
Federal Highways Administration Contact: Phone:	Jim Leonard, Urban Areas Engineer 360.753.9408
Army Corps of Engineers Contact: Phone:	Kate Stenberg 425.649.7002

4. If the discovery is of historical/archeological objects, as well as human remains, the I-405 Environmental Manager will notify the Segment Manager(s) and Contract Manager(s).

I-5 (Tukwila) to I-90 Segment Manager: Phone:	Stacy Trussler 425.456.8563
I-90 to I-5 (Lynnwood) Segment Manager Phone:	Denise Cieri 425.450.2743
I-5 to SR 169 Contract Manager: Phone:	Ross Fenton 425.456.8538
I-90 to SR 520 Contract Manager Phone:	Ron Ohlsen 425.456.8506
SR 520 to SR 522 Contract Manager Phone:	Wendy Taylor 425.450.2701
SR 169 to I-90 Contract Manager Phone:	John Donatelli 425.456.8535

Washington State Office of Archaeology and Historic Preservation

State Historic Preservation Officer: Phone:	Allyson Brooks 360.586.3066
WSDOT Tribal Liaison	Colleen Jollie 360.705.7025

Appropriate Tribal Staff

Duwamish Contact: Phone:	Honorable Cecile Hansen 206.431.1582
Muckleshoot Contact: Phone:	Donna Hogerhuis/Laura Murphy 253.939-3311/253.867.3272
Snoqualmie Contact: Phone:	Ray Mullen/Ian Kanier 425.333-4365/425.333.6511
Suquamish Contact: Phone:	Charlie Sigo 360.394.5801
Tulalip Contact: Phone:	Hank Gobin 360.651.3310
Yakama Nation Contact: Phone:	Johnson Meninick 509.856.5121 (ext.4737)
5. The Segment Manager will also notify the I-405 Chief Engineer if available.	
I-405 Chief Engineer: Phone:	Kim Henry 425.456.8579
The I-405 Segment Manager (if available) <u>or</u> the appointee will notify the following applicable agencies:	
City of Tukwila Contact: Phone:	Cindy Knighton, Sr. Transportation Engineer 206.433.0179
City of Renton Contact: Phone:	Nick Afzali, Planning and Program Manager 425.430.7245
City of Newcastle Contact: Phone:	Fritz Timm, Sr. Development Engineer 425.649.4444
City of Bellevue Contact: Phone:	Goran Sparrman, Transportation Director 425.452.6856
City of Kirkland Contact: Phone:	Don Anderson, Project Engineer 425.587.3826
City of Bothell Contact: Phone:	Eddie Low, City Engineer 425.486.2768

King County
Contact:
Phone:

Ann Martin, Principal Transportation Planner
206.263.4711

Note #1: Further responsibility for this area will be at the direction of FHWA, SHPO, affected Tribes, or the appropriate Law Enforcement agency.

Note #2: WSDOT reserves the right to bring a certified archeologist to any inadvertent discovery site on tribal land.

Note #3: Written confirmation of the Inadvertent Discovery will be forwarded from the Urban Corridors Office, with certified receipt, to the appropriate federal agency or respective tribal authority within three (3) working days

APPENDIX 1 Treatment of Resources

Construction and/or field activities related to the I-405, SR520 to SR522 Stage 1 Project may cause disturbance to underground archaeological resources. The following document establishes provisions for the professional archaeological treatment of cultural materials inadvertently discovered during usual construction activities, including mechanical clearing, grubbing, scraping, boring, and the removal of structures in the course of the above named project.

Provisions of the Archaeological / Cultural Resource Treatment Plan are as follows:

1. The Monitor or WSDOT representative will contact the I-405 Environmental Manager who will then contact the WSDOT Cultural Resource Specialist to immediately report all unanticipated discovery of cultural resources potentially eligible for listing in the NRHP encountered during construction. The I-405 Environmental Manager will notify the I-405 Segment Manager and the Regional FHWA Administrator, or designee (Jim Leonard, Urban Area Engineer), for the purpose of establishing contact with the concerned parties. The Environmental Manager will contact the UCO Cultural Resource Specialist, Connie Walker Gray. The Environmental Manager will also notify affected Tribe(s) and SHPO of any unanticipated discovery. Construction will be halted within the immediate area of the discovery and the scene will be protected until the Environmental Manager has arranged for the discovery to be identified by the appropriate law enforcement agency and by the WSDOT Cultural Resources Staff. If the discovery is determined to be historic or archaeological in nature; the SHPO and Tribe(s) will be consulted to determine the appropriate course of action. The Environmental or Project Manager may direct construction away from cultural resources to work in other areas prior to contacting the concerned parties.
2. The WSDOT may secure the services of a professional archaeologist who, in cooperation with WSDOT archaeologists, will ensure the proper documentation and assessment of any discovered cultural resources. Non-intrusive field documentation of all human remains will be undertaken immediately. All prehistoric and historic cultural material discovered during project construction will be recorded by a professional archaeologist on State of Washington cultural resource site or isolate form using standard techniques. Site overviews, features, and artifacts will be photographed; stratigraphic profiles and soil/sediment descriptions will be prepared for subsurface exposures. Discovery locations will be documented on scaled site plans and site location maps.
3. Sites discovered during construction will be assumed eligible under Criterion D for inclusion in the National Register of Historic Places (NRHP) for the purposes of Section 106 compliance, in accordance with 36 CFR 800.13(c).
4. Where complex or extensive cultural remains are encountered, the project manager and archaeological personnel will determine the appropriate level of documentation and treatment of the resource after consultation with SHPO, WSDOT, and the concerned tribal representatives.
5. Where cultural resources are encountered during construction, but additional project effects to the resources are not anticipated, project construction may continue while documentation and assessment of the cultural resources proceed. If continued construction is likely to cause additional impacts to such resources, project activities within a radius of 30 feet of the discovery will cease until the archaeological monitor has documented the site, evaluated its significance, and assessed potential effects to the site. The I-405 Project Director will decide when construction may continue at the discovery location.

6. Cultural features, horizons and artifactual remains detected in buried sediments may require further evaluation using hand-dug test units to clarify aspects of integrity, stratigraphic context, or feature function. Units may be dug in controlled fashion to expose features, collect radiocarbon or animal/plant macrofossil samples from undisturbed contexts, or interpret complex stratigraphy. A test excavation unit or small trench might also be used to cross-section a feature to determine if an intact occupation surface is present. Test units will be used only when necessary to gather information on the nature, extent, and integrity of subsurface cultural deposits to evaluate the site's potential to address significant research domains. Excavations will be conducted using state-of-the-art techniques for controlling provenience of recovered remains.
7. Sediments excavated for purposes of cultural resources investigation will be screened through 1/8-inch mesh. Spatial information, depth of excavation levels, natural and cultural stratigraphy, presence or absence of cultural material, and depth to sterile soil, regolith, or bedrock will be recorded for each probe on a standard form. Test excavation units will be recorded on unit-level forms, which include plan maps for each excavated level, and material type, number, and vertical provenience (depth below surface and stratum association where applicable) for all artifacts recovered from the level. Radiocarbon and macrofossil samples will be taken from intact subsurface features exposed by shovel/auger probes or test units. A stratigraphic profile will be drawn for at least one wall of each test excavation unit.
8. All prehistoric and historic artifacts collected from the surface and from probes and excavation units will be analyzed, catalogued, and temporarily curated. Ultimate disposition of cultural materials will be determined in consultation with the SHPO and the concerned tribes.
9. Within 90 days of conclusion of fieldwork, a management summary describing any and all monitoring activity and resultant archaeological excavations will be provided to the project manager or the region. The project manager will forward the report to the WSDOT Cultural Resources Office for review and delivery to SHPO and the concerned tribes.
10. If construction activity exposes human remains (burials, or isolated teeth or bones), construction in the immediate vicinity of the find will be halted. The project manager Brian Nielsen will contact the King County Sheriff's Office and/or 911 immediately. The SHPO and concerned Tribal contacts will then be notified ASAP by a representative from WSDOT Cultural Resources Program. The remains will be protected from further disturbance until the project manager, SHPO and concerned tribes have determined appropriate treatments and ultimate disposition of the remains. No additional excavation will be undertaken prior to tribal consultation, and no exposed human remains will be left unattended during work hours. Concerned tribes will be given the opportunity to visit and name the site, and conduct ceremonies deemed necessary.